

RECEIVED  
CENTRAL FAX CENTER

NOV - 8 2005

Attorney Docket No. 9391-2

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Helmut Heide et al.  
Application No.: 10/085,526  
Filed: February 26, 2002

Confirmation No.: 1405  
Group Art Unit: 1755  
Examiner: Karl E. Group

For: **Resorbable Bone Replacement and Bone Formation Material**

Date: November 8, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER UNDER 37 C.F.R. 1.321 TO OBVIATE A  
PROVISIONAL DOUBLE PATENTING REJECTION OVER A CO-PENDING  
APPLICATION**

Sir:

I, Julie H. Richardson, am an attorney of record of the Disclaimant, curasan AG, and am authorized to execute this disclaimer on behalf of curasan AG. The Disclaimant, curasan AG, a German corporation having a principal place of business at Lindigstr. 4, Kleinostheim, GERMANY, is the owner of all right, title, and interest in the above-identified ("instant") application.

The Disclaimant hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term, as defined in 35 U.S.C. §§154 - 156, §173 and any other relevant statutory provision, of any patent granted on U.S. Patent Application No. 10/930,965 ("the reference application"), and as the term of any patent granted on the reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The instant application and the reference application are commonly owned by the Disclaimant as evidenced by the recordation of the assignment with the USPTO at Reel/Frame 015197/0943.

Disclaimant further agrees that any patent so granted on the instant application, which is the subject of this disclaimer, shall be enforceable only for and during such period that it is

In re: Helmut Heide  
Application Serial No.: 10/085,526  
Filed: February 26, 2002  
Page 2

commonly owned with the reference application. This agreement runs with any patent granted on the instant application, and is binding upon the grantee, its successors, or assigns.

In making this disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154-156 and §173 of any patent granted on said reference application, as the term of any patent granted on the reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application, in the event that: any such patent granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

In accordance with the requirements of 37 C.F.R. §1.321, the Commissioner is hereby authorized to charge the \$130.00 fee specified in 37 C.F.R. §1.20(d) to Deposit Account No. 50-0220. This amount is believed to be correct. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

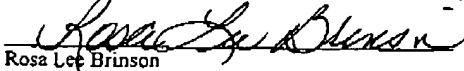


Julie H. Richardson  
Registration No. 40,142

USPTO Customer No. 20792  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401

**CERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office via the central facsimile number 571-273-8300 on November 8, 2005.



Rosa Lee Brinson